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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9 JOHN R. JORDAN, Jr.,

10 Plaintiff,

No. CIV S-03-1820 LKK KJM P

11 vs.

12 CAL A. TERHUNE, et al.,

13 Defendants.

ORDER

14 _____/
15 Plaintiff has filed his second and third request for an extension of time to file and
16 serve an opposition to defendant Rohlfig's November 30, 2007 motion for summary judgment.
17 Good cause appearing, the request will be granted.

18 Plaintiff has also filed several requests for an extension of time to file and serve
19 an opposition to the motion for summary judgment and statement of undisputed facts filed by
20 defendants J. Boitano, D. J. Brown, T. Cobb, J. Cox, R Dreith, J. Eder, T. Felker, B Fleming, K.
21 McCraw, D. McGuire, S. Platt, D. Vanderville, R Wong, M. Wright, R. Miranda, S. Armoskus
22 and K. Kopec. Good cause appearing, these requests will be granted.

23 Finally, on January 2 and January 9, 2008 plaintiff filed motions to reopen
24 discovery in order to secure documents necessary to oppose summary judgment. Defendants
25 have opposed these motions.

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1 Rule 56(f) of the Federal Rules of Civil Procedure permits a court to deny or
2 continue determination of a motion for summary judgment “should it appear from the affidavits
3 of a party opposing the motion that the party cannot for reasons stated present by affidavit facts
4 essential to justify the party’s opposition.”

5 The Ninth Circuit has held:

6 References in memoranda and declarations to a need for discovery
7 do not qualify as motions under Rule 56(f). Rule 56(f) requires
8 affidavits setting forth the particular facts expected from the
9 movant’s discovery. Failure to comply with the requirements of
10 Rule 56(f) is a proper ground for denying discovery and
proceeding to summary judgment.

Further, the movant cannot complain if it fails to pursue discovery
diligently before summary judgment.

11 Brae Transp., Inc. v. Coopers & Lybrand, 790 F.2d 1439, 1443 (9th Cir. 1986). Similarly, an
12 implicit motion for more time to conduct discovery will not bar summary judgment. State of
13 California v. Campbell, 138 F.3d 772, 779 (9th Cir. 1998); King v. Atiyeh, 814 F.2d 565, 567
14 (9th Cir. 1987) (pro se plaintiffs still must follow rules of procedure).

15 Although plaintiff suggests the need for more discovery in his motion, which he
16 has signed under the penalty of perjury, he has not clearly described the material he seeks to
17 develop nor suggested how the information will bolster his opposition to the motion for
18 summary judgment. See Crofton v. Roe, 170 F.3d 957, 961 (9th Cir. 1999). Accordingly,
19 plaintiff’s request for further discovery will be denied.

20 IT IS HEREBY ORDERED that:

21 1. Plaintiff’s January 2 (Docket Nos. 198, 199 & 201) and January 9, 2008
22 (Docket Nos. 207 & 209) requests for extensions of time are granted.

23 2. Plaintiff is granted sixty days from the date of this order in which to file and
24 serve an opposition to defendant Rohlfing’s November 30, 2007 motion for summary judgment
25 and the remaining defendants’ November 30, 2007 motion for summary judgment and statement
26 of undisputed facts. No further extensions of time will be granted.

3. Plaintiff's January 2 and January 9, 2008 requests (Docket Nos. 200 & 208) to
reopen discovery are denied.

DATED: January 17, 2008.



U.S. MAGISTRATE JUDGE

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